

# Union Calendar No. 358

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5710

[Report No. 111-616]

To amend and reauthorize the controlled substance monitoring program under section 399O of the Public Health Service Act.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2010

Mr. WHITFIELD (for himself, Mr. PALLONE, Mr. SHIMKUS, Mr. STUPAK, Mr. ROGERS of Michigan, Mr. GENE GREEN of Texas, Mrs. BLACKBURN, Mrs. CHRISTENSEN, Mr. RADANOVICH, Mrs. MALONEY, Mr. BISHOP of Georgia, Mr. WILSON of Ohio, Mr. GINGREY of Georgia, Mr. GORDON of Tennessee, Mr. KAGEN, Mr. PITTS, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 22, 2010

Additional sponsors: Mr. PAULSEN and Mr. SCHOCK

SEPTEMBER 22, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on July 1, 2010]

# **A BILL**

To amend and reauthorize the controlled substance monitoring program under section 399O of the Public Health Service Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       *This Act may be cited as the “National All Schedules*  
5       *Prescription Electronic Reporting Reauthorization Act of*  
6       *2010”.*

7       **SEC. 2. AMENDMENT TO PURPOSE.**

8       *Paragraph (1) of section 2 of the National All Sched-*  
9       *ules Prescription Electronic Reporting Act of 2005 (Public*  
10       *Law 109–60) is amended to read as follows:*

11               *“(1) foster the establishment of State-adminis-*  
12               *tered controlled substance monitoring systems in*  
13               *order to ensure that—*

14                       *“(A) health care providers have access to the*  
15                       *accurate, timely prescription history information*  
16                       *that they may use as a tool for the early identi-*  
17                       *fication of patients at risk for addiction in order*  
18                       *to initiate appropriate medical interventions*  
19                       *and avert the tragic personal, family, and com-*  
20                       *munity consequences of untreated addiction; and*

21                       *“(B) appropriate law enforcement, regu-*  
22                       *latory, and State professional licensing authori-*  
23                       *ties have access to prescription history informa-*  
24                       *tion for the purposes of investigating drug diver-*

1           sion and prescribing and dispensing practices of  
 2           errant prescribers or pharmacists; and”.

3   **SEC. 3. AMENDMENTS TO CONTROLLED SUBSTANCE MONI-**  
 4           **TORING PROGRAM.**

5           Section 399O of the Public Health Service Act (42  
 6   U.S.C. 280g–3) is amended—

7           (1) in subsection (a)(1)—

8                   (A) in subparagraph (A), by striking “or”;

9                   (B) in subparagraph (B), by striking the  
 10          period at the end and inserting “; or”; and

11                  (C) by adding at the end the following:

12                   “(C) to maintain and operate an existing  
 13          State-controlled substance monitoring program.”;

14           (2) by amending subsection (b) to read as fol-  
 15          lows:

16           “(b) *MINIMUM REQUIREMENTS.*—The Secretary shall  
 17          maintain and, as appropriate, supplement or revise (after  
 18          publishing proposed additions and revisions in the Federal  
 19          Register and receiving public comments thereon) minimum  
 20          requirements for criteria to be used by States for purposes  
 21          of clauses (ii), (v), (vi), and (vii) of subsection (c)(1)(A).”;

22           (3) in subsection (c)—

23                   (A) in paragraph (1)(B)—

1                   (i) in the matter preceding clause (i),  
2                   by striking “(a)(1)(B)” and inserting  
3                   “(a)(1)(B) or (a)(1)(C)”;

4                   (ii) in clause (i), by striking “program  
5                   to be improved” and inserting “program to  
6                   be improved or maintained”; and

7                   (iii) in clause (iv), by striking “public  
8                   health” and inserting “public health or pub-  
9                   lic safety”;

10                  (B) in paragraph (3)—

11                   (i) by striking “If a State that sub-  
12                   mits” and inserting the following:

13                   “(A) IN GENERAL.—If a State that sub-  
14                   mits”;

15                   (ii) by inserting before the period at  
16                   the end “and include timelines for full im-  
17                   plementation of such interoperability”; and

18                   (iii) by adding at the end the fol-  
19                   lowing:

20                   “(B) MONITORING OF EFFORTS.—The Sec-  
21                   retary shall monitor State efforts to achieve  
22                   interoperability, as described in subparagraph  
23                   (A).”;

24                  (C) in paragraph (5)—

1                   (i) by striking “implement or im-  
 2                   prove” and inserting “establish, improve, or  
 3                   maintain”; and

4                   (ii) by adding at the end the following:  
 5                   “The Secretary shall redistribute any funds  
 6                   that are so returned among the remaining  
 7                   grantees under this section in accordance  
 8                   with the formula described in subsection  
 9                   (a)(2)(B).”;

10               (4) in the matter preceding paragraph (1) in  
 11               subsection (d), by striking “In implementing or im-  
 12               proving” and all that follows through “(a)(1)(B)”  
 13               and inserting “In establishing, improving, or main-  
 14               taining a controlled substance monitoring program  
 15               under this section, a State shall comply, or with re-  
 16               spect to a State that applies for a grant under sub-  
 17               paragraph (B) or (C) of subsection (a)(1)”;

18               (5) in subsections (e), (f)(1), and (g), by striking  
 19               “implementing or improving” each place it appears  
 20               and inserting “establishing, improving, or maintain-  
 21               ing”;

22               (6) in subsection (f)—

23                   (A) in paragraph (1)(B) by striking “mis-  
 24                   use of a schedule II, III, or IV substance” and  
 25                   inserting “misuse of a controlled substance in-

1           *cluded in schedule II, III, or IV of section 202(c)*  
 2           *of the Controlled Substance Act”;* and

3           *(B) by adding at the end the following:*

4           “(3) *EVALUATION AND REPORTING.*—Subject to  
 5           *subsection (g), a State receiving a grant under sub-*  
 6           *section (a) shall provide the Secretary with aggregate*  
 7           *data and other information determined by the Sec-*  
 8           *retary to be necessary to enable the Secretary—*

9           *“(A) to evaluate the success of the State’s*  
 10          *program in achieving its purposes; or*

11          *“(B) to prepare and submit the report to*  
 12          *Congress required by subsection (k)(2).*

13          “(4) *RESEARCH BY OTHER ENTITIES.*—A depart-  
 14          *ment, program, or administration receiving non-*  
 15          *identifiable information under paragraph (1)(D) may*  
 16          *make such information available to other entities for*  
 17          *research purposes.”;*

18          *(7) by redesignating subsections (h) through (n)*  
 19          *as subsections (i) through (o), respectively;*

20          *(8) in subsections (c)(1)(A)(iv) and (d)(4), by*  
 21          *striking “subsection (h)” each place it appears and*  
 22          *inserting “subsection (i)”;*

23          *(9) by inserting after subsection (g) the fol-*  
 24          *lowing:*

1       “(h) *EDUCATION AND ACCESS TO THE MONITORING*  
 2 *SYSTEM.*—A State receiving a grant under subsection (a)  
 3 shall take steps to—

4               “(1) facilitate prescriber use of the State’s con-  
 5 trolled substance monitoring system; and

6               “(2) educate prescribers on the benefits of the  
 7 system both to them and society.”;

8               (10) by amending subsection (l), as redesignated,  
 9 to read as follows:

10       “(l) *PREFERENCE.*—Beginning 3 years after the date  
 11 on which funds are first appropriated to carry out this sec-  
 12 tion, the Secretary, in awarding any competitive grant  
 13 under title V that is related to drug abuse (as determined  
 14 by the Secretary) and for which only States or tribes are  
 15 eligible to apply, may give preference to eligible States with  
 16 applications approved under this section, to eligible States  
 17 or tribes with existing controlled substance monitoring pro-  
 18 grams that meet minimum requirements under this section,  
 19 or to eligible States or tribes that put forth a good faith  
 20 effort to meet those requirements (as determined by the Sec-  
 21 retary).”.

22               (11) in subsection (m)(1), as redesignated, by  
 23 striking “establishment, implementation, or improve-  
 24 ment” and inserting “establishment, improvement, or  
 25 maintenance”;



1           (12) in subsection (n)(8), as redesignated, by  
2       striking “and the District of Columbia” and inserting  
3       “, the District of Columbia, and any commonwealth  
4       or territory of the United States”; and

5           (13) by amending subsection (o), as redesignated,  
6       to read as follows:

7       “(o) *AUTHORIZATION OF APPROPRIATIONS.—To carry*  
8       *out this section, there are authorized to be appropriated*  
9       *\$15,000,000 for fiscal year 2011 and \$10,000,000 for each*  
10      *of fiscal years 2012 and 2013.”.*

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